



September 23, 2016

**Appeal
CC Docket No. 02-6**

Federal Communications Commission
Office of the Secretary
445 12th Street, SW
Washington, DC 20554

To Whom It May Concern:

We are filing an Appeal of an Administrator's Decision on behalf of the Madison School District for Funding Year 2011.

Billed Entity: Madison School District
Billed Entity Number (BEN): 142903
Form 471 Application Number: 789799
FRN: 2162209
Administrator's Decision on Appeal Date: 7/27/2016

Appeal Request filed by:
Nicely Done Consulting, LLC
Ernest N. Nicely
3820 W Happy Valley Road
Glendale, Arizona 85310

Reason for Denial of Funding Request:

Funds were improperly disbursed for products and/or services that were not approved on the FCC Form 471. The products and/or services do not meet the requirements for an eligible service substitution.

Basis of Appeal:

The products and services did meet the requirements for an eligible service substitution. FRN 2162209 consisted of various types of equipment, cabling, labor and configuration services at two schools. After the start of the project district personnel in conjunction with the service provider decided to reallocate resources to address a number of serious issues with existing cabling and technology closets.

Background:

All of the work performed was related to eligible cabling or the installation and configuration of eligible equipment.

In many locations, existing cabling was tested and repaired rather than installing new cabling. While the scope of work called for new cabling to be installed, the end result of the change provided the same functionality—a working copper data drop. A total of 500 copper cable drops were quoted between the two schools. In the end, the service provider installed 277 new cable drops and tested/repaired 173 existing cable runs, a difference of only 50 drops. Testing and repairing the existing copper cabling is an eligible service routinely done as part of Internal Connections projects.

In addition to the changes to the cabling scope of work, resources were devoted to the reconfiguration of multiple technology closets and the relocation of one particular closet. At the service provider's recommendation, the district agreed that the equipment and patch cabling in many of the closets needed to be redone to make more efficient use of the available rack space. At one of the schools (Park Elementary) an IDF was relocated from an unsecured, poorly ventilated equipment cage to a room better suited for such a function. Thus the existing cabling to that cage had to be pulled back and reconnected in the new room. Had the district decided to leave the IDF closet in the original location, E-Rate funded equipment and cabling would have had a greater risk of damage or theft. Relocating and restacking this networking equipment and cabling is an eligible Internal Connections service.

All of the substituted goods and services referenced above provided the same functionality as in the original scope, did not violate any contract provisions or procurement laws, did not result in an increase in funding and was within the scope of the establishing FCC Form 470.

Corrective Measure:

The Notification of Improperly Disbursed Funds Recovery Letter indicates that USAC will seek \$36,674.10 in recovery from the service provider (Logicalis, Inc.) The Madison School District recognizes that if the service provider must return those funds, they will in turn seek compensation from the district. Because the scope changes represent eligible goods and services the district asks that a retroactive service substitution request be allowed. The outlined changes can then be reviewed for eligibility before additional action is taken.

Supporting Documentation:

The following text is taken directly from the USAC website (<http://usac.org/si/applicants/before-youre-done/service-substitutions.aspx>):

If the applicant discovers that products or services delivered are different from those approved on the FCC Form 471, the applicant should file a correcting service substitution even if the discovery occurs after the last day to receive service. Such a request will be considered for the case of an applicant providing correcting information.

Additional Supporting Statement:

In summary, please consider that the imposed penalty seeking the recovery of \$36,674 is unduly punitive to the district, considering the only error was in failing to follow procedure four years ago. Had a service substitution request been filed prior to the work being done, the request would have most certainly been approved. No funds were expended for ineligible goods or services, nor were procurement violations committed. Please allow the district to fully utilize the funding they were approved for during the Winter of 2011.

Thank you,



Ernest N. Nicely
Partner
Nicely Done Consulting, LLC



Universal Service Administrative Company
Schools & Libraries Division

Administrator's Decision on Appeal – Funding Year 2011-2012

July 27, 2016

Ernest N. Nicely
Nicely Done Consulting
3820 W. Happy Valley Road
Suite 141, #497
Glendale, AZ 85310

Re: Applicant Name: MADISON SCHOOL DISTRICT # 38
Billed Entity Number: 142903
Form 471 Application Number: 789799
Funding Request Number(s): 2162209
Your Correspondence Dated: May 12, 2016

After thorough review and investigation of all relevant facts, the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (USAC) has made its decision in regard to your appeal of USAC's Funding Year 2011 Notification of Improperly Disbursed Funds Recovery Letter for the Application Number indicated above. This letter explains the basis of USAC's decision. The date of this letter begins the 60 day time period for appealing this decision. If your Letter of Appeal included more than one Application Number, please note that you will receive a separate letter for each application.

Funding Request Number(s): 2162209
Decision on Appeal: **Denied**
Explanation:

- During an audit, it has been determined that funds were improperly disbursed for products and/or services that were not approved on the FCC Form 471. The products and/or services do not meet the requirements for an eligible service substitution. During the audit it was determined that \$36,674.10 of funding was disbursed for an ineligible Service Substitution caused by a project scope change which resulted in fewer ports being installed. Funds approved for purchase and installing ports were used to reconfigure equipment closets and to relocate an equipment closet. FCC rules require that applicants indicate on the FCC Form 471 and Item 21 attachments the services and/or equipment for which they are seeking funding so that USAC can determine whether the services and/or equipment are eligible for funding. Since the services were invoiced via a Service

Provider Invoice form, this violation was caused by an act or omission of the service provider because the service provider is responsible for ensuring that it provides and invoices USAC for only the products and/or services equipment that USAC approved. On the SPAC Form, the authorized person certifies on behalf of the service provider that the SPIs that are submitted by this service provider contain requests for Universal Service support for services which have been billed to the service providers customers on behalf of schools, libraries, and consortia of those entities, as deemed eligible for Universal Service support by the fund administrator. Accordingly, USAC will seek recovery of the \$36,674.10 of improperly disbursed funds from the service provider. In your appeal, you did not demonstrate that USAC's decision was incorrect. Consequently, your appeal is denied.

Since your appeal was denied in full, dismissed or cancelled, you may file an appeal with the FCC. Your appeal must be postmarked within 60 days of the date on this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. You should refer to CC Docket No. 02-6 on the first page of your appeal to the FCC. If you are submitting your appeal via United States Postal Service, send to: FCC, Office of the Secretary, 445 12th Street SW, Washington, DC 20554. Further information and options for filing an appeal directly with the FCC can be found under the Reference Area/"Appeals" of the SLD section of the USAC website or by contacting the Client Service Bureau. We strongly recommend that you use the electronic filing options.

We thank you for your continued support, patience and cooperation during the appeal process.

Schools and Libraries Division
Universal Service Administrative Company

cc: Jay Mann

Demand Payment Letter

Funding Year 2011: July 1, 2011 - June 30, 2012

August 17, 2016

Jaime Kazee
Logicalis Inc
8945 S. Harl Ave
Suite 102
Tempe, AZ 85284

Re: SPIN:	143004779
Service Provider Name:	Logicalis Inc
Form 471 Application Number:	789799
Funding Year:	2011
FCC Registration Number:	0011586229
Applicant Name:	MADISON SCHOOL DISTRICT # 38
Billed Entity Number:	142903
Applicant Contact Person:	Jay Mann
Payment Due By:	9/16/2016

You were recently sent a Notification of Improperly Disbursed Funds Recovery Letter informing you of the need to recover funds from you for the Funding Request Number(s) (FRNs) listed on the Funding Disbursement Recovery Report of that letter. A copy of that Report is also attached to this letter.

The balance of this debt is due within 30 days from the date of this letter. Failure to pay the debt within 30 days from the date of this letter could result in interest, late payment fees, administrative charges, and implementation of the "Red Light Rule." The FCC's Red Light Rule requires USAC to dismiss pending FCC Form 471 applications if the entity responsible for paying the outstanding debt has not paid the debt, or otherwise made satisfactory arrangements to pay the debt within 30 days of the notice provided by USAC. For more information on the Red Light Rule, please see <https://www.fcc.gov/encyclopedia/red-light-frequently-asked-questions>.

If the Universal Service Administrative Company (USAC) has determined that both the applicant and the service provider are responsible for a Program rule violation, then, pursuant to the Order on Reconsideration and Fourth Report and Order (FCC 04-181), USAC will seek recovery of the improperly disbursed amount from BOTH parties and will continue to seek recovery until either or both parties have fully paid the debt. If the USAC has determined that both the applicant and the service provider are responsible for a Program rule violation, this was indicated in the Disbursed Funds Recovery Explanation on the Funding Disbursement Recovery Report.

If USAC is attempting to collect all or part of the debt from both the applicant and the service provider, then you should work with the applicant to determine who will be repaying the debt to avoid duplicate payment.

Please note, however, that the debt is the responsibility of both the applicant and service provider. Therefore, you are responsible for ensuring that the debt is paid in a timely manner.

Please remit payment for the full "Funds to be Recovered from Service Provider" amount shown in the Report. To ensure that your payment is properly credited, please include a copy of the Report with your check. Make your check payable to the Universal Service Administrative Company (USAC).

Use one of the appropriate addresses listed below to send payments to USAC.

U.S. Postal Service and Standard Mail for Payments:

USAC
PO Box 105056
Atlanta, GA 30348-5056

Courier and Overnight Packages:

USAC
Lockbox 105056
1075 Loop Road
Atlanta, GA 30337
(404) 209-6377

ACH payments:

USAC requests that all ACH payment be sent in CCD+ format to:
ABA Routing #071000039, Account #5590045653

Payment is due within 30 days from the date of this letter.

Complete Program information is posted to the SLP section of the USAC website at www.usac.org/sl/. You may also contact the SLP Client Service Bureau by email using the "Submit a Question" link on the SLP website, by fax at 1-888-276-8736 or by phone at 1-888-203-8100. Contacting SLP for questions does not change the deadline for your response to this Letter.

Universal Service Administrative Company
Schools and Libraries Program

cc: Jay Mann
MADISON SCHOOL DISTRICT # 38

Funding Disbursement Recovery Report
Form 471 Application Number: 789799

Funding Request Number: 2162209
Services Ordered: INTERNAL CONNECTIONS
SPIN: 143004779
Service Provider Name: Logicalis Inc
Contract Number: 09R-ENIC2-1223
Billing Account Number:
Site Identifier: 142903
Funding Commitment: \$1,454,388.79
Funds Disbursed to Date: \$1,433,017.06
Funds to be Recovered from Service Provider: \$36,674.10

Disbursed Funds Recovery Explanation:

Applicant RIDF

During an audit, it has been determined that funds were improperly disbursed for this funding request. The following equipment purchased with the E-Rate discounts for FY 2011, FRN 2162209, could not be located: Uninterrupted Power Supply. FCC rules require that the equipment purchased with program discounts be located at an eligible entity and be utilized effectively for educational purposes. The rules require that applicants retain asset and inventory records of equipment purchased and components of supported Internal Connections services sufficient to verify the location of such equipment for five years. Since the equipment purchased with Universal Service funds could not be located, the above FCC rules were violated. Accordingly, USAC will seek recovery of \$921.00 of improperly disbursed funds from the applicant.

SP RIDF

During an audit, it has been determined that funds were improperly disbursed for products and/or services that were not approved on the FCC Form 471. The products and/or services do not meet the requirements for an eligible service substitution. During the audit it was determined that \$36,674.10 of funding was disbursed for an ineligible Service Substitution caused by a project scope change which resulted in fewer ports being installed. Funds approved for purchase and installing ports were used to reconfigure equipment closets and to relocate an equipment closet. FCC rules require that applicants indicate on the FCC Form 471 and Item 21 attachments the services and/or equipment for which they are seeking funding so that USAC can determine whether the services and/or equipment are eligible for funding. Since the services were invoiced via a Service Provider Invoice form, this violation was caused by an act or omission of the service provider because the service provider is responsible for ensuring that it provides and invoices USAC for only the products and/or services equipment that USAC approved. On the SPAC Form, the authorized person certifies on behalf of the service provider that the SPIs that are submitted by this service provider contain requests for Universal Service support for services which have been billed to the service providers customers on behalf of schools, libraries, and consortia of those entities, as deemed eligible for Universal Service support by the fund administrator. Accordingly, USAC will seek recovery of the \$36,674.10 of improperly disbursed funds from the service provider.

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